

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

SHUSEN LU,

Charging Party,

-v-

CHINA BOWL,

Respondent.

Case No.: 0061011805

ORDER

Shusen Lu (Lu) filed a complaint with the Department of Labor and Industry (Department) alleging that the China Bowl discriminated against him based on age. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Lu's allegations of unlawful discrimination and the Department issued a Notice of Dismissal. Lu filed objections with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 20, 2006.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Mont. Code Ann. § 49-2-509(4)(2003); Admin. R. Mont. 24.9.1714(3)*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint is not an abuse of discretion. The determination on discrimination is supported by a thorough investigation, the findings of fact are sufficiently supported and the conclusions of law are correct.

A party may ask a district court to review a decision of the Commission to affirm the dismissal of a complaint. *Admin. R. Mont. 24.9.1714(7); See also Mont. Code Ann. § 2-4-702*. If a charging party chooses to commence a civil action, charging party has 90 days after the receipt of this order to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Mont. Code Ann. § 49-2-509(5)*

(2003); *Admin. R. Mont.* 24.9.1714(5). If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Shusen Lu's objection is **overruled**. The Commission adopts and affirms the determination of the Human Rights Bureau to dismiss the complaint.

DATED this ____ day of September 2006.

Chair Franke Wilmer
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of September 2006.

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